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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 2, 1999

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.
Washington, D.C.

**Re: ET Docket No. 98-206, RM-9147, RM-9245**

Dear Ms. Salas:

Enclosed please find for filing on behalf of EchoStar Communications Corporation ("EchoStar") an original and eight copies of EchoStar's Comments in the above-referenced proceeding. Pursuant to the Commission's request, EchoStar submits these Comments in both hard copy and on computer disk.

Also enclosed is an additional copy of EchoStar's Comments, which we ask you to date stamp and return with our messenger.

Respectfully submitted,

Colleen Sechrest

Philip L. Malet
Colleen A. Sechrest

Enclosures

No. of Copies rec'd 0+8
List ABCDE



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**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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|---|---|---|
| In the Matters of<br><br>Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range<br><br>and<br><br>Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates | ) | ET Docket No. 98-206<br>RM-9147<br>RM-9245 |

# COMMENTS OF ECHOSTAR COMMUNICATIONS CORPORATION

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*Counsel for EchoStar Communications Corporation*

Dated: March 2, 1999

## SUMMARY

EchoStar Communications Corporation ("EchoStar") hereby submits its Comments on the above-captioned proposals (1) to permit non-geostationary satellite orbit ("NGSO") Fixed-Satellite Service ("FSS") operations in certain segments of the Ku-band, including the 11.7-12.7 GHz band, the 14.0-14.5 GHz bands, and the 17.3-17.8 GHz band; and (2) to permit terrestrial use of the 12.2-12.7 GHz band for the retransmission of local television and the provision of one-way data services on a secondary basis by Direct Broadcast Satellite ("DBS") service operators and their affiliates. These proposals correspond to petitions for rulemakings filed by SkyBridge, L.L.C. ("SkyBridge") and Northpoint Technology ("Northpoint"), respectively. Absent appropriate technical constraints on the proposed NGSO services, beyond those already proposed by the Commission, the proposed allocation would compromise and could significantly interfere with existing DBS and FSS services in the Ku-band, and accordingly, should not be approved at this time. Furthermore, the Commission should not allocate the DBS spectrum to a ubiquitous terrestrial service.

The 12.2-12.7 and 17.3.-17.8 GHz bands are allocated domestically and in Region 2 to the Broadcasting Satellite Service ("BSS") for the provision of DBS services and their associated feederlinks, such as those provided by EchoStar. The 11.7-12.2 and 14.0-14.5 GHz bands are also allocated to the FSS, for which EchoStar also holds licenses. The importance of these services cannot be underestimated. In particular, with over six million subscribers in the United States today using the DBS bands, as the Commission recognizes, DBS is the closest competitor to cable television for the provision of multichannel video program distribution services. Accordingly, it is vital that the Commission protect both the current and future operation of these services. However, neither of the proposals made in this proceeding provide

Exhibit N

**EXHIBIT N**

Federal Communications Commission, Sixth Annual Report, *In re Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming,* FCC CS Docket No. 99-230, 15 FCC Rcd. 978 (rel. January 14, 2000), available on Westlaw (2000 WL 347568) and Lexis (2000 FCC LEXIS 250).

LEXSEE 15 fcc rcd 978

In the Matter of Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming

CS Docket No. 99-230

FEDERAL COMMUNICATIONS COMMISSION

*15 FCC Rcd 978; 2000 FCC LEXIS 250; 19 Comm. Reg. (P & F) 456*

RELEASE-NUMBER: FCC 99-418

January 14, 2000 Released; Adopted December 30, 1999

ACTION: [*1] SIXTH ANNUAL REPORT

JUDGES:

By the Commission: Commissioner Furchtgott-Roth dissenting and issuing a statement; and Commissioner Tristani issuing a statement

OPINION:

**I. INTRODUCTION**

1. Section 628(g) of the Communications Act of 1934, as amended ("Communications Act"), requires the Commission to report annually to Congress on the status of competition in markets for the delivery of video programming. n1 Congress imposed this annual reporting requirement in the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") n2 as a means of obtaining information on the competitive status of markets for the delivery of video programming. n3 This is the Commission's sixth annual report (*"1999 Report"*) submitted pursuant to Section 628(g) of the Communications Act. n4

**A. Scope of this Report**

n1 Communications Act of 1934, as amended, § 628(g), *47 U.S.C. § 548*(g).

n2 Pub.L. No. 102-385, 106 Stat. 1460 (1992).

n3 The 1992 Act imposed a regulatory scheme on the cable industry designed to serve as a transitional mechanism until competition develops and consumers have adequate multichannel video programming alternatives. One of the purposes of Title VI of the Communications Act, Cable Communications, is to "promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems." *447 U.S.C. § 521*(6). [*2]

n4 The Commission's previous reports appear at: Implementation of Section 19 of the 1992 Cable Act (Annual Assessment of the Status of Competition in the *Market for the Delivery of Video Programming), CS Docket No. 94-48, First Report ("1994 Report"), 9 FCC Rcd 7442 (1994);* Annual Assessment of the Status of



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Competition in the *Market for the Delivery of Video Programming, CS Docket No. 95-61, Second Annual Report ("1995 Report"), 11 FCC Rcd 2060 (1996);* Annual Assessment of the Status of Competition in the *Market for the Delivery of Video Programming, CS Docket No. 96-133, Third Annual Report ("1996 Report"), 12 FCC Rcd 4358 (1997);* Annual Assessment of the Status of Competition in *Markets for the Delivery of Video Programming, CS Docket No. 97-141, Fourth Annual Report ("1997 Report"), 13 FCC Rcd 1034 (1998),* and Annual Assessment of the Status of Competition in *Markets for the Delivery of Video Programming, CS Docket No. 98-102, Fifth Annual Report ("1998 Report"), 13 FCC Rcd 24284 (1998).*

2. In this *1999 Report*, we update the information [*3] in our previous reports and provide data and information that summarizes the status of competition in markets for the delivery of video programming. The information and analysis provided in this report are based on publicly available data, filings in various Commission rulemaking proceedings, and information submitted by commenters in response to a *Notice of Inquiry* ("*Notice*") in this docket. n5 To the extent that information provided in previous annual reports is still relevant, we do not repeat that information in this report other than in an abbreviated fashion, and provide references to the discussions in prior reports.

n5 *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* CS Docket No. 99-230, Notice of Inquiry ("*Notice*"), *14 FCC Rcd 9617 (1999).* Appendix A provides a list of commenters.

3. In Section II, we examine the cable television industry, existing multichannel video programming distributors ("MVPDs") and other program distribution technologies and potential competitors to cable television. Among the MVPD systems or techniques discussed are direct broadcast satellite ("DBS") [*4] services and home satellite dishes ("HSDs"), wireless cable systems using frequencies in the multichannel multipoint distribution service ("MMDS") and the instructional television fixed service ("ITFS"), private cable or satellite master antenna television ("SMATV") systems as well as broadcast television service. We also consider other existing and potential distribution technologies for video programming, including the Internet, home video sales and rentals, local exchange telephone carriers ("LECs"), and electric and gas utilities. We include these services and providers because they offer, or may offer, video programming or video programming in conjunction with nonvideo services.

4. In Section III of this report, we examine market structure and competition. We evaluate horizontal concentration in the multichannel video marketplace and vertical integration between cable television systems and programming services. We also discuss competitors serving multiple dwelling unit ("MDU") buildings. We further address programming issues and technical advances. In Section IV, we examine a limited number of cases where consumers have a choice between an incumbent cable operator and another [*5] MVPD in a specific market and report on the effects of this entry.

**B. Summary of Findings**

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5. In the *1999 Report*, we examine the status of competition in markets for the delivery of video programming, discuss changes that have occurred in the competitive environment over the last year, and describe barriers to competition that continue to exist. Overall, the *Report* finds that competitive alternatives and consumer choices continue to develop. Cable television still is the dominant



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technology for delivery of video programming to consumers in the MVPD marketplace, although its market share continues to decline. As of June 1999, 82% of all MVPD subscribers received their video programming from a local franchised cable operator, compared to 85% a year earlier.

6. The total number of subscribers to both cable and noncable MVPDs continues to increase. A total of 80.9 million households subscribed to multichannel video programming services as of June 1999, up 5.5% over the 76.6 million households subscribing to MVPDs in June 1998. This subscriber growth accompanied a 3.2 percentage point increase in multichannel video programming distributors' penetration of television households [*6] to 81.4% as of June 1999.

7. Since the *1998 Report*, the number of cable subscribers continued to grow, reaching 66.7 million as of June 1999, up almost 2% over the 65.4 million cable subscribers in June 1998. The total number of noncable MVPD households grew from 11.2 million as of June 1998 to 14.2 million homes as of June 1999, an increase of 26%.

8. Much of the increase in the growth of noncable MVPD subscribers is attributable to the growth of DBS. DBS appears to attract former cable subscribers and consumers not previously subscribing to an MVPD. Between June 1998 and June 1999, the number of DBS subscribers grew from 7.2 million households to 10.1 million households. DBS subscribers now represent 12.5% of all MVPD subscribers. There also have been a number of additional cable overbuilds in the last year. While the Commission has certified new open video systems, some OVS operators have converted portions of their systems to franchised cable operations. Over the last year, the number of subscribers to and market shares of HSD and MMDS subscribers continued to decline. However, the number of SMATV subscribers has increased this year, reversing a decline exhibited the previous [*7] year.

9. During the period under review, cable rates rose faster than inflation, although the difference between the cable price index and the Consumer Price Index ("CPI") is not as great as in the previous year. According to the Bureau of Labor Statistics, between June 1998 and June 1999, cable prices rose 3.8% compared to a 2% increase in the CPI, which measures general price changes. Concurrently with these rate increases, capital expenditures for the upgrading of cable facilities increased (up 13.2% over 1998), the number of video and nonvideo services offered increased, and programming costs increased (license fees increased by 14.6% and programming expenses increased by 16.3%). In addition, the increase in labor costs in the communications industry is reported to exceed the increase in labor costs for all industries combined by almost 2%. We note that during this period, on March 31, 1999, rates for cable programming service tiers ("CPSTs") were deregulated by Congress. n6 We also note that cable operators' pricing decisions may be affected where direct competition exists. Available evidence indicates that when an incumbent cable operator faces head-to-head competition, it responds [*8] in a variety of ways, including lowering prices or adding channels without changing the monthly rate, as well as improving customer service and adding new services such as interactive programming.

n6 *See* Sections 623(c)(3) and (c)(4); *47 U.S.C § 543(c)(3)* and (c)(4).

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10. The Telecommunications Act of 1996 ("1996 Act") n7 removed barriers to



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together with our discussion of high-powered Ku-band DBS providers. *See 1998 Report* 13 FCC Rcd at 24323 P61.

n256 This service is now called "Primestar by DirecTV." DirecTV has converted 20,000 PrimeStar customers to its high powered service and has an ongoing marketing plan to transition the remaining medium powered satellite service subscribers to DirecTV. *See* http://www.primestar.com.

70. ***Subscribership***. DBS remains cable's largest competitor, and DBS subscribership shows continued growth. As of June 1999, DBS providers had over ten million subscribers, an increase of approximately 39% since 1998. n257 Between June 1998 and June 1999, DirecTV added 1,524,000 subscribers and EchoStar added 1,234,000 subscribers. n258 DirecTV is the [*86] nation's leading satellite television service with more than 7.6 million customers as of June 1999, and a 72% share of the domestic DBS market. n259 EchoStar had almost 2.6 million subscribers and 28% DBS market share as of June 1999. n260 Analysts estimate that DBS will have nearly 21 million subscribers by 2007. n261 There is some overlap, however, between cable and DBS subscribership. Of the 60% of DBS subscribers with access to cable, 24% subscribe to cable in addition to DBS, primarily to receive local broadcast signals. n262

n257 SBCA Comments at 7.

n258 http://www.skyreport.com.

n259 This includes approximately two million PrimeStar by DirecTV subscribers.

n260 Carmel Group, *Cable versus Satellite: Where's the Beef?*, DBS Investor, Sept. 1999, at 4.

n261 *21 million by 2007?*, SkyREPORT, July 1999, at 11.

n262 SBCA Comments at Appendix B ("1999 DBS Study 6").

71. ***DBS versus Cable***. Differences between cable and DBS continue to diminish, and some observers assert that consumers perceive DBS and cable to be substitutable services. n263 Both DBS and cable operators offer video programming packages to subscribers for a monthly fee, and offer premium [*87] and pay-per-view services. However, DBS subscribers continue to report higher levels of customer satisfaction over cable. For example, SBCA cites a DBS study that found "consumers who select DTH service find it superior to any other video service ... and for DBS subscribers, 90 percent rated the overall quality of their satellite system as excellent or good." n264 J.D. Power and Associates rated EchoStar's DISH Network number one in customer satisfaction in the pay television industry in their 1999 Cable/Satellite TV Customer Satisfaction Study. n265

n263 AT&T Comments at 2. NCTA Comments at 16.

n264 SBCA Comments at 12.

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n265 J.D. Power and Associates, *EchoStar DISH Network Rated Number One*, (press release) September 1999.



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two-way services, such as high-speed Internet access and telephony, possible.

n318 *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act - Competitive Bidding, MM Docket. No. 94-131 and PP Docket No. 93-253, Report and Order, 10 FCC Rcd at 9589, 9593 P7 (1995)*; 1996 Report, 12 FCC Rcd at 4386 P51 n.152.

86. The MMDS industry currently provides competition to the cable industry only in limited areas. For example, BellSouth provides competitive digital MMDS video services in areas in the southeast and GTE provides competitive digital MMDS services in Honolulu. Sprint Corporation and MCI WorldCom, Inc. have acquired most of the larger MMDS operators over the past year, with the intent of using the acquired frequencies to provide two-way communication services. Since [*109] the 33-channel analog capacity of MMDS systems is generally not competitive with that of most cable systems, MMDS subscribership has declined. One analyst believes that analog MMDS video will eventually serve only rural areas, but that digital video subscribership will climb moderately and high-speed data access through MMDS will grow rapidly. n319

n319 Paul Kagan Assocs., *Wireless/Private Cable Investor*, July 13, 1999, at 1-2.

87. ***MMDS Households and Subscribership***. In 1999, the number of homes with a serviceable line of sight to an MMDS operator's transmission facilities was 62,500,000, and the number of homes actually capable of receiving an MMDS operator's signal ("homes seen") was 35,750,000. n320 The total number of MMDS video subscribers fell from 1.0 million to 821,000 between June 1998 and June 1999, a decrease of 17.9%. Of the 821,000 subscribers in 1999, 721,000 were analog MMDS subscribers and the other 100,000 were subscribers to digital MMDS services. n321

n320 Paul Kagan Assocs., Inc., *Wireless Cable Sub Count and Revenue Projections, 1998-2009*, Wireless/Private Cable Investor, July 13, 1999, at 4-5. The number of homes with a "servicable line of sight" counts all homes which an MMDS operator is licensed to serve within a particular license area, regardless of technical limitations such as signal strength or blockage by terrain. The number of "homes seen," on the other hand, is the number of homes that MMDS operators have the technical ability to serve. For more discussion, *see 1997 Report*, 13 FCC Rcd at 1081 P74, fn. 272. [*110]

n321 Paul Kagan Assocs., Inc., *Wireless Cable Sub Count and Revenue Projections, 1998-2009*, Wireless/Private Cable Investor, July 13, 1999, at 4-5..

88. ***Video Joint Ventures***. Two MMDS operators, Nucentrix Spectrum Resources, Inc. ("Nucentrix"), formerly Heartland Wireless Communications, Inc., and Wireless One, Inc., have announced joint ventures with DBS operator DirecTV. According to these agreements, the MMDS operator will combine its MMDS frequencies with DirecTV's satellite video programming so that consumers can receive local broadcast and other channels with MMDS frequencies in addition to DirecTV's full video service through a DBS dish. The local MMDS operator handles installation of and subscription to both services. This service is offered to both single-family homes and MDUs. n322 Many MMDS operators view MDUs as

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n343 1996 Act sec. 301(a)(2), *47 U.S.C. § 522*(7). Prior to the 1996 Act, to qualify for this exception the buildings had to be under common ownership, control, or management. *1997 Report*, 13 FCC Rcd at 1085 P82, fn 297. [*118]

93. On July 13, 1999, the Commission adopted a *Notice of Proposed Rulemaking* seeking comment on a proposal to allow SMATV operators to use Cable Television Relay Service ("CARS") 12 GHz band channels to deliver video programming. n344 The proceeding was initiated in response to a petition filed by OpTel, a SMATV operator, on April 1, 1998. While OpTel sought such authorizations only for SMATV systems, the Commission broadened the proceeding to potentially include all MVPDs as potential CARS licensees. n345 The Commission also sought comment on whether the CARS band should be expanded to include the frequency band segment from 13.20-13.25 GHz, currently designated for television broadcast auxiliary service. n346

n344 *Petition for Rulemaking To Amend Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service*, CS Docket No. 99-250, Notice of Proposed Rulemaking, FCC 99-166 (rel. July 14, 1999).

n345 *Id.* at P4.

n346 *Id.* at P8.

94. ***SMATV Operators***. SMATV operators, also known as private cable operators, consist of hundreds of private and public, small and medium size firms throughout the nation. n347 Among the largest SMATV operators [*119] as of June 1999, were OpTel, Cable Plus, MidAtlantic Communications, and OnePoint Communications Corp. n348 These relatively large SMATV operators serve between 45,000 and 216,249 subscribers each. n349 Many SMATV operators serve approximately 3,000-4,000 customers. n350

n347 *1997 Report*, 13 FCC Rcd at 1085 P84; *1998 Report*, 13 FCC Rcd at 24341 P90.

n348 *Who's Who in Private Cable*, Private Cable & Wireless Cable, Dec. 1998, at 18; facsimile from Independent Cable Television Association ("ICTA"), Oct. 13, 1999, at 2. On October 28, 1999, OpTel, Inc., voluntarily sought protection under Chapter 11 of the U.S. Bankruptcy Code.

n349 *Who's Who in Private Cable*, Private Cable & Wireless Cable, Dec. 1998, at 18; facsimile from ICTA, Oct. 13, 1999, at 2.

n350 Facsimile from ICTA, Oct. 13, 1999, at 2.

95. ***Growth***. As of December 1997, there were approximately 24.9 million year-round occupied "households" (individual dwelling units) located in MDU housing in the United States, compromising approximately 25% of the estimated 99.5 million total year-round occupied housing units nationwide. n351 Because SMATV systems generally serve MDUs, and since a portion [*120] of MDUs are currently governed by "perpetual" or long-term exclusive contracts with franchised cable operators, SMATV operators' potential residential subscriber base is likely somewhat less than 25% of all households nationwide. n352 Last year, we reported that there were 940,000 residential SMATV subscribers, as of June 1998. n353 This year, the same source estimates that there were FCC000000475



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approximately 1.5 million SMATV subscribers as of June 1999. n354

n351 U.S. Census Bureau, *American Housing Survey for the United States in 1997*, Table 1A-1: "Introductory Characteristics-All Housing Units," Oct. 1999.

n352 Facsimile from ICTA, Oct. 13, 1999, at 2. "Perpetual" contracts generally provide that they run for the term of a franchise "and any extensions thereof."

n353 *1998 Report*, 13 FCC Rcd at 24341 P90.

n354 NCTA Comments at 5. Last year, NCTA estimated that there were 940,000 residential SMATV subscribers as of June 1998. *See* App. C, Tbl. C-1. *See also*, *1998 Report*, 13 FCC at 24341 P90. The increase in the number of estimated SMATV subscribers over last year may be attributable to the inexact method used for estimating SMATV subscribers.

96. ***Advanced*** [*121] ***and Other Service Offerings***. Over the past several years, private cable operators offering service over SMATV systems have begun to offer many of the same services offered by franchised cable operators, including local and long distance residential telephone service and Internet access. n355 In previous years, we reported that SMATV providers offer other unique services such as closed-circuit security monitoring, voice mail, paging, and touch-screen monitor kiosk customer service. n356 Video services generate the most revenue for SMATV operators, followed by Internet access service, pay-per-view service, security services, and telephony. n357 OpTel, the nation's largest SMATV provider, offers bundled voice, video and data services to MDU residents in 13 markets. n358 OnePoint Communications Corp., a leading SMATV operator and licensed competitive local exchange carrier ("CLEC"), offers telephony and Internet access. n359

n355 OpTel Comments at 3; *1997 Report*, 13 FCC Rcd at 1085 P84; *1998 Report*, 13 FCC Rcd at 24342 P92.

n356 *1998 Report*, 13 FCC Rcd at 24342 P92.

n357 *Private Cable Industry Facts*, Private Cable & Wireless Cable, Dec. 1998, at 4. [*122]

n358 *Who's Who in Private Cable*, Private Cable & Wireless Cable, Dec. 1998, at 18.

n359 *Id.*

97. SMATV operators continue to upgrade their systems in order to increase channel capacity and service offerings. n360 According to one source, average channel capacity among those responding to a recent poll was approximately 89 channels, with a low of 50 channels and a high of 200 channels offered. n361

n360 *1998 Report*, 13 FCC Rcd at 24342 P91.

n361 Facsimile from ICTA, Oct. 13, 1999, at 2. Nineteen SMATV operators responded to ICTA's request for SMATV system information.


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*TiVo Train*, Broadcasting & Cable, September 13, 1999, at 38; CableFAX Daily, September 9, 1999, at 2; Circuit City advertising supplement to the Washington Post, November 7, 1999.

n458 http://www.tivo.com; http://www. replaytv.com.

n459 http://www.tivo.com.

n460 http://www.replaytv.com; John Markoff, *2 Makers Plan Introductions of Digital VCR*, New York Times, March 29, 1999, at C13.

n461 TiVo S-1/A.

120. The 1996 Act amended section 651 of the Communications Act in order to permit telephone companies to provide video services in their telephone service areas. According to the statute, common carriers may: (1) provide video programming to subscribers through radio communications under Title III of the Communications Act; n462 (2) provide transmission of video programming on a common carrier basis under Title II of the Communications Act; n463 (3) provide video programming as a cable system under Title VI of the Communications Act; n464 or (4) provide video programming by means of an open video system ("OVS"). n465

n462 *47 U.S.C.* § *571*(a)(1). [*152]

n463 *47 U.S.C.* § *571*(a)(2).

n464 *47 U.S.C.* § *571*(a)(3).

n465 *47 U.S.C.* § *571*(a)(3)-(4).

121. In previous *Reports*, we noted that while LECs were not yet a national competitor in the MVPD market, their competitive presence was growing. n466 Currently, it appears that the rate of entry may be slowing by even the most aggressive LECs, and several LECs have reduced or eliminated their MVPD efforts. The decline in the rate of entry of LECs into the MVPD market may indicate that some LECs have already entered the geographic markets they consider most profitable, and are now only filling gaps in areas of service.

**1. Current and Planned LEC Video Delivery**

n466 *1995 Report*, 11 FCC Rcd at 2110 P133; *1996 Report*, 12 FCC Rcd at 4394 P67; *1997 Report*, 13 FCC Rcd at 1099 P108; *1998 Report*, 13 FCC Rcd at 24353 P111.

122. ***MMDS***. BellSouth remains the largest LEC investor in MMDS licenses and systems. n467 Since the *1998 Report*, however, BellSouth has not launched digital MMDS services in any additional localities. n468 BellSouth's MMDS [*153] service areas cover approximately 3.5 million homes in Florida, Atlanta, Louisiana, and Kentucky. n469 As of the third quarter of 1999, BellSouth had 130,000 MMDS subscribers. n470 In addition, GTE operates a digital MMDS system in Oahu, Hawaii. n471

n467 *1998 Report*, 13 FCC Rcd at 24354 P112.


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Exhibit O

**EXHIBIT O**

DISH Network, *Programming Overview,* available on the DISH Network web site <http://www.dishnetwork.com/software/third_level_content/overview/index.asp>.

# Programming

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## International A la Carte

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## Alaska/Hawaii Package

## Adult A la Carte

## Standard A la Carte

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Click here for our PPV Movie and Event lineup.

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Exhibit P

**EXHIBIT P**

DISH Network, *Basic Package Channel List,* available on the DISH Network web site <http://www.dishnetwork.com/software/third_level_content/top_100/index.asp?package_name=America""s%2BTop%2B100%2BCD&view=list>.

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| 216 | | | AMERV | America's Voice |
| 130 | | | AMC | American Movie Classics |
| 262 | | | ANGEL | Angel One (Sky Angel 100 Ministries) |
| 184 | | | ANIML | Animal Planet |
| 118 | | | A&E | Arts & Entertainment |
| 135 | | | BBC | BBC America |
| | 9403 | | BYUTV | BYUTV |
| 124 | | | BET | Black Entertainment Television |
| 129 | | | BRAVO | Bravo |
| 210 | | | CSPAN | C-SPAN |
| 212 | | | CSPN2 | C-SPAN2 |
| 954 | | | CD05 | CD-70sSongbook |
| 969 | | | CD20 | CD-Acoustic Crossroads |
| 957 | | | CD08 | CD-Adult Alternative |
| 956 | | | CD07 | CD-Adult Contemporary |
| 955 | | | CD06 | CD-Adult Favorites |
| 974 | | | CD25 | CD-Big Band Era |
| 978 | | | CD29 | CD-Blues |
| 959 | | | CD10 | CD-Classic Rock |
| 971 | | | CD22 | CD-Concert Classics |
| 975 | | | CD26 | CD-Contemporary Christian |
| 970 | | | CD21 | CD-Contemporary Instrumentals |
| 968 | | | CD19 | CD-Contemporary Jazz Flavors |
| 951 | | | CD02 | CD-Country Classics |
| 952 | | | CD03 | CD-Country Currents |

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Exhibit P

| | | | | |
|---|---|---|---|---|
| 952 | | | CD03 | CD-Country Currents |
| 973 | | | CD24 | CD-Easy Instrumentals |
| 966 | | | CD17 | CD-EuroStyle |
| 965 | | | CD16 | CD-Fiesta Mexicana |
| 958 | | | CD09 | CD-Hot Hits |
| 967 | | | CD18 | CD-Jazz Traditions |
| 953 | | | CD04 | CD-Jukebox Gold |
| 976 | | | CD27 | CD-KidTunes |
| 990 | | | CD31 | CD-LDS Radio Network |
| 964 | | | CD15 | CD-Latin Styles |
| 972 | | | CD23 | CD-Light Classical |
| 960 | | | CD11 | CD-Modern Rock Alternative |
| 977 | | | CD28 | CD-New Age |
| 950 | | | CD01 | CD-New Country |
| 962 | | | CD13 | CD-Non-Stop Hip Hop |
| 961 | | | CD12 | CD-Power Rock |
| 979 | | | CD30 | CD-Reggae |
| 963 | | | CD14 | CD-Urban Beat |
| 208 | | | CNBC | CNBC |
| 206 | | | CNNFN | CNN Financial/CNN International |
| 200 | | | CNN | Cable News Network |
| 176 | | | TOON | Cartoon Network, The |
| 107 | | | CMDY | Comedy Central |
| 166 | | | CMT | Country Music Television |
| 204 | | | COURT | Court TV |
| | | 9413 | DELLL | DELLL |
| 101 | | | DISH1 | DISH Info |
| 251 | | | INFO1 | DISH Info 1 |
| 182 | | | DISC | Discovery Channel, The |
| 189 | | | DHLTH | Discovery Health |
| 172 | | | DISNE | Disney Channel (East) |
| 173 | | | DISNW | Disney Channel (West) |
| 114 | | | E! | E! Entertainment Television |
| 140 | | | ESPN | ESPN |
| 145 | | | ESPNA | ESPN Alternate |
| 143 | | | ESPCL | ESPN Classic |
| 144 | | | ESPN2 | ESPN2 |
| 146 | | | ESP2A | ESPN2 Alternate |
| 142 | | | ESNWS | ESPNEWS |
| 432 | | | EMP | Empire Sports |
| 261 | | | EWTN | Eternal Word Television Network |
| 137 | | | FX | F/X |
| 451 | | | ALT1 | FOX Alternate 1 |
| 452 | | | ALT2 | FOX Alternate 2 |
| 453 | | | ALT3 | FOX Alternate 3 |
| 180 | | | FAM | FOX Family Channel |
| 205 | | | FXNWS | FOX News Channel |
| 415 | | | FOXAZ | FOX Sports Arizona |
| 419 | | | FOXBA | FOX Sports Bay Area |
| 421 | | | FOXCH | FOX Sports Chicago |
| 427 | | | FOXCN | FOX Sports Cincinnati |
| 430 | | | FOXD | FOX Sports Detroit |
| 423 | | | FOXFL | FOX Sports Florida |
| 418 | | | FOXMW | FOX Sports Midwest |

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| | | | | |
|---|---|---|---|---|
| 435 | | | FOXNE | FOX Sports New England |
| 413 | | | FOXNY | FOX Sports New York |
| 426 | | | FOXNW | FOX Sports Northwest |
| 425 | | | FOXOH | FOX Sports Ohio |
| 428 | | | FOXPT | FOX Sports Pittsburgh |
| 414 | | | FOXRM | FOX Sports Rocky Mountain |
| 420 | | | FOXS | FOX Sports South |
| 416 | | | FOXSW | FOX Sports Southwest |
| 417 | | | FOXW | FOX Sports West |
| 110 | | | FOOD | Food Network |
| | 9415 | | FSTV | Free Speech TV |
| 272 | | | GLVSN | Galavision |
| 116 | | | GAME | Game Show Network |
| | | 9416 | GSN | Good Samaritan Network |
| | 9401 | | HITN | HITN |
| 202 | | | HNN | Headline News Network |
| 120 | | | HIST | History Channel, The |
| 112 | | | HGTV | Home & Garden Television |
| 222 | | | HSN | Home Shopping Network, The |
| 424 | | | HTS | Home Team Sports |
| 108 | | | LIFE | Lifetime |
| 9410 | | | LINK | LinkMedia |
| 209 | | | MSNBC | MSNBC |
| 412 | | | MSG | Madison Square Garden |
| 436 | | | MSC | Midwest Sports Channel |
| 160 | | | MTV | Music Television |
| 161 | | | M2 | Music Television 2 |
| 213 | | | NASA | NASA |
| 168 | | | TNN | Nashville Network, The |
| 434 | | | NESN | New England Sports Network |
| 170 | | | NICK | Nickelodeon / Nick at Nite (East) |
| 171 | | | NICKW | Nickelodeon / Nick at Nite (West) |
| 169 | | | NOGIN | Noggin |
| 9411 | | | NAUHS | Northern Arizona University / University House |
| 181 | | | PAX | PAX TV |
| | 9402 | | PBS-U | PBS YOU |
| 226 | | | QVC | QVC Shopping Network |
| | 9400 | | RSRCH | Research Channel |
| 131 | | | RO/IF | Romance Classics / Independent Film Channel |
| 122 | | | SCIFI | Sci-Fi Channel, The |
| 224 | | | SAH | Shop At Home |
| 422 | | | SUN | Sunshine Network |
| 405 | | | TVGAM | TV Games Network |
| 106 | | | TVLND | TV Land |
| 178 | | | TLC | The Learning Channel |
| 174 | | | TDISN | Toon Disney |
| 220 | | | TRAV | Travel Channel, The |
| 260 | | | TBN | Trinity Broadcasting Network |
| 230 | | | TBS | Turner Broadcast System |
| 132 | | | TCM | Turner Classic Movies |
| 138 | | | TNT | Turner Network Television |
| | 437 | | TUSOU | Turner South |
| 105 | | | USA | USA Network |
| 9412 | | | UCTV | University of California |

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**Exhibit P**

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FOR PUBLIC INSPECTION

| | | | | |
|---|---|---|---|---|
| 270 | | | UNVSN | Univision |
| 162 | | | VH1 | VH1 |
| 228 | | | VALUE | ValueVision |
| 239 | | | WGN | WGN |
| 214 | | | TWC | Weather Channel, The |
| 191 | | | TECH | Ziff-Davis TV |

Site Search Web Master DISH Home

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Exhibit Q

# EXHIBIT Q

DISH Network Advertisement, USA TODAY, March 16, 2000, at 14A.

# "I hit pause until I'm ready with *my* final answer."

**WebTV® Personal TV service and DISHPlayer™ let you pause live TV, record without a VCR and program your own TV line-up from hundreds of satellite channels.**

Only Microsoft® WebTV Network™ Personal TV service and the DISHPlayer Satellite Receiver put you in charge of your television! All with the touch of your remote. All without a VCR!

- Pause live TV
- Record digitally without a VCR
- Create your own personal TV channel line-up
- Instantly replay anything on TV
- Rewind, fast-forward, skip ahead just like VCRs
- Get hundreds of DISH Network™ satellite channels

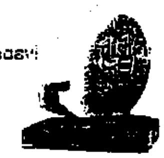
webtv PERSONAL TV

It all starts with the ultimate satellite system. Only DISHPlayer gives you the choice, customization and control over what you watch — starting at $199!

A better value than cable. You can get DISH Network programming with WebTV Personal TV service for less than $30 a month!*

FREE home installation. Purchase your DISHPlayer Satellite system by April 30, 2000, and we'll pay for your regular home installation!**

Visit your local Sears store or call [illegible] today!



DISHPlayer™ Satellite Receiver

**SEARS** Take control. It's your TV.

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Exhibit Q

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Exhibit R